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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,209	02/12/2004	Lawrence Green	079693-010700	3160

33717 7590 10/01/2008  
GREENBERG TRAURIG LLP (LA)  
2450 COLORADO AVENUE, SUITE 400E  
INTELLECTUAL PROPERTY DEPARTMENT  
SANTA MONICA, CA 90404

EXAMINER
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CARTAGENA, MELVIN A

ART UNIT	PAPER NUMBER
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3754

MAIL DATE	DELIVERY MODE
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10/01/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/776,209	<b>Applicant(s)</b> GREEN ET AL.	
	<b>Examiner</b> MELVIN A. CARTAGENA	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,9-12 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) 5,10,11 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,9,12 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4102008.6092008</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 9, 2008 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 19 recites the limitations "the syringe plunger" and "the primary chamber" in lines 9 and 10 respectively. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 9, 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,254,092 to Polyak in view of US 3,279,660 to Collar.

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Polyak shows a pumping system as seen in Figs. 10-13, having a fluid source 15 for selective pressurization, a hydraulic mechanism 14 and 23, a ergonomic pistol-grip handle 20, a trigger 21 pivotally mounted to an upper end of the housing, valves 2, see Figs. 7-9, an actuator 10 located distal to the trigger for selecting pressure relieve and flexible conduits 37 and 38. The device of Polyak is adopted to be operated by a single hand. Polyak is silent about using the hydraulic pumping system to pressurize and dispense from a container and being capable of bleeding air off. Collar shows a material dispenser as seen in Figs. 1 and 2 having a port 34 to receive a pressurized fluid and valve element 36 to vent air to the atmosphere through vent opening 28. It would have been obvious to a person with ordinary skill in the art at the time of the invention to use the dispensing container of Collar with the plumping system of Polyak to obtain fine control of the working pressure and permit deposit of very small amounts of material as taught by Collar.

7. Claims 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,254,092 to Polyak as modify by US 3,279,660 to Collar as applied to claims 1 and 19 above, and further in view of US 5,411,180 to Dumelle.

The Polyak-Collar combination show all claimed features as discussed above but are silent about a working pressure range of up to 5000 PSI. Dumelle shows a hydraulic dispenser as seen in Figs. 1 and 2, having a working pressure range of up to 5000 PSI. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of the Polyak-Collar combination to work in any suitable pressure range, including 5000 PSI, since the pressure required to dispensed a product is a function of factors such as the

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required dispensed flow rate, type of nozzle assembly and viscosity of the material being dispensed as taught by Dumelle.

8. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,254,092 to Polyak as modify by US 3,279,660 to Collar as applied to claims 1 and 19 above, and further in view of US 4,250,887 to Dardik et al.

The Polyak-Collar combination show all claimed features as discussed above but are silent about the length of the flexible tubing being long enough to permit a user to be outside of a radiation field of a patient being imaged. Dardik show a remote manual injecting apparatus as seen in Fig. 1, with flexible tubing 33 long enough to permit a user to be outside of a radiation field 10 of a patient being imaged 12. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to provide the device of the Polyak-Collar combination with a long enough flexible tube to distance the operator from the radiation source and prevent exposing an operator to harmful radiation as taught by Dardik.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1-4, 9, 12 and 16-20 have been considered but are moot in view of the new ground(s) of rejection.

With respect to the replacement sheet of drawing, none has been received. The only drawing of record are the originally drawing, presented on February 12, 2004.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELVIN A. CARTAGENA whose telephone number is (571)272-4924. The examiner can normally be reached on T-F (7:30AM to 6:00 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A. C./  
Examiner, Art Unit 3754

/Kevin P. Shaver/  
Supervisory Patent Examiner, Art Unit 3754